



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/743,385	01/09/2001	Dirk Lenz	BEIERSDORF69	9792

7590

06/24/2002

Norris McLaughlin & Marcus PA  
220 East 42nd Street  
30th Floor  
New York, NY 10017

EXAMINER

ZIRKER, DANIEL R

ART UNIT	PAPER NUMBER
----------	--------------

1771

DATE MAILED: 06/24/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- ☒ Claim(s) 1-9 is/are pending in the application.  
Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-9 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☒ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 4
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit 1771

1. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 4, 7 and 8 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, in each of claims 2 and 4 applicant has recited multiple ranges of parameters, making the claims vague and indefinite. In claim 7, line 1, the phrase "the reverse" appears desirably to be changed to --the opposing outer surface--, or equivalent language thereto. In claim 8, Markush language appears proper.

3. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over WO 97/42922 combined with Yang et al. WO

Art Unit 1771

-922 discloses (note particularly page 3, lines 7-20, page 4, line 16 - page 5, line 23, page 7, lines 8-12) a genus of adhesive coated bandages which feature non-woven fabrics that may be formed from (page 4 lines 25-35) polyethylene fibers and may further be coated with a suitable adhesive layer such as (page 7 lines 10-12) pressure sensitive adhesive compositions. The reference fails to disclose the presence of a metallocene-polyethylene genus of fibers making up the non-woven backing. Yang et al., however discloses (note particularly the Abstract, Figures 1-3, column 2 line 55 - column 3 line 8, column 7 lines 22-34, column 10 lines 14-20, column 16 lines 14-59) the use of a metallocene-polyethylene<sup>fiber</sup>woven material (column 2 lines 55-67) as a backing web, with the backing further being provided with a suitable adhesive (column 7 lines 22-34). One of ordinary skill, motivated by the desirable properties produced by metallocene type polymerized polyethylene<sup>fiber</sup> fabrics would so incorporate this technology from Yang et al. into the backing web material of WO -922 and thereby form the claimed genus of embodiments. Other parameters, such as the presence of specific weight, thickness, and tensile strengths (claims 2 and 3) are believed to be, if not either expressly or inherently disclosed, obvious modifications to one of ordinary skill, in the absence of unexpected results.

Art Unit 1771

5. Claims 1-9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over either Joseph et al. or Riedel et al. Each of the references discloses (note particularly Joseph et al., the Abstract, column 1 line 62 - column 2 line 10, column 5 lines 10-30, column 10 lines 24-40, claim 1; Riedel et al., the Abstract, column 8 line 66, column 9 line 13, Examples 7-9) in certain embodiments broad genres of non-woven fabric and backing materials that have pressure sensitive adhesive fibers that may be formed from metallocene type polyethylene materials intermixed throughout. In Joseph et al. the multi-component fibers may be distributed throughout the width dimension of the non-woven tape backing such that the adhesive component is exposed on both outer faces of the non-woven tape backing (column 1 line 66 - column 2 line 2). As such, if such a structure is not deemed to anticipate at least applicant's broad claim, it is believed to put the claimed structure well within the ordinary skill of the art. With respect to Riedel et al., the non-woven melt blown microfiber pressure sensitive adhesive webs formed comprise the use of metallocene catalyzed polyethylene resin and produce a desirable uniform web. As such, although no disclosure of an outer adhesive layer on the formed non-woven backings of the reference are believed to exist, it is still believed that one of ordinary skill would find such a structure to be well within the skill of the art, particularly in view of the fact that the non-

Serial No. 09/743,385

-5-

Art Unit 1771

woven backing has mingled throughout a variety of pressure sensitive adhesive fibers. Other parameters, such as those set forth above are again each believed to be, if not either expressly or inherently disclosed, obvious modifications to one of ordinary skill, in the absence of unexpected results.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (703) 308-0031. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for this Group is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Dzirker:cdc

June 18, 2002

**DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP 1300**

1700

*Daniel Zirker*